

WY
21
AN8
N863.3f
1981

UNC-CH HEALTH SCIENCES LIBRARY



H00152675 Q

NORTH CAROLINA BOARD OF
NURSING: FINAL COMMISSION
REPORT



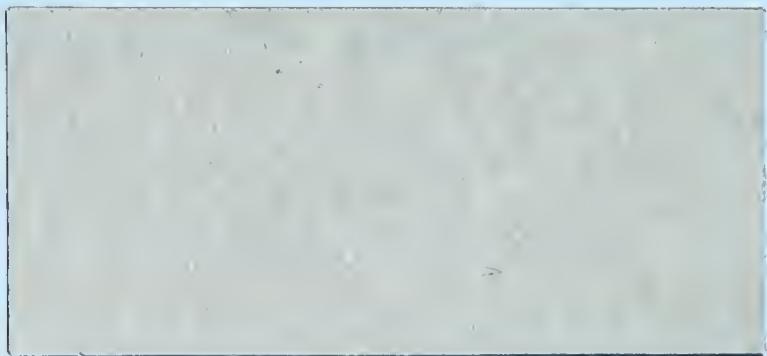
State of North Carolina
Governmental Evaluation Commission



FINAL COMMISSION REPORT

NORTH CAROLINA BOARD OF NURSING

411 N. Blount Street
Raleigh, North Carolina 27601



MEMBERS:

*Mrs. Wymene S. Valand, Chairman
Sen. Marshall A. Rauch, Vice Chairman

Rep. David W. Bumgardner, Jr.
Mrs. Willie Mae Carney
Mrs. Nancy Chase
Mr. Emmanuel S. Douglas
Dr. Jack D. Fleer
Rep. Richard R. Grady
Sen. Joseph J. Harrington
Sen. W. Craig Lawing
Rep. Edd Nye
Mrs. Janet W. Pickler*

STAFF:

*Paul C. Jordan, Executive Director
George H. Fleming
Benjamin Gilbert
Carolyn I. Ingram
Warren L. Tadlock UNIVERSITY OF NORTH CAROLINA
Ann P. Poole
Sarah J. Murphy*

OCT 24 1981

HEALTH SCIENCES LIBRARY

FINAL COMMISSION REPORT

NORTH CAROLINA BOARD OF NURSING

January 5, 1981



Digitized by the Internet Archive
in 2011 with funding from

North Carolina History of Health Digital Collection, an LSTA-funded NC ECHO digitization grant project

TABLE OF CONTENTS

	<i>PAGE</i>
<i>SUMMARY</i>	1
<i>CONCLUSIONS</i>	3
<i>RECOMMENDATIONS</i>	3
<i>INTRODUCTION TO THE GOVERNMENTAL EVALUATION COMMISSION</i>	4
<i>SCOPE OF THE EVALUATION</i>	6
<i>HISTORICAL BACKGROUND</i>	8
<i>EVALUATION ELEMENTS</i>	9
<i>FOOTNOTES</i>	26
 <i>AGENCY OPERATION</i>	
<i>Licensing</i>	28
<i>Enforcement</i>	30
<i>Financial</i>	31
<i>APPENDIX</i>	33
<i>PROPOSED LEGISLATION</i>	35

SUMMARY

As directed by North Carolina General Statutes, Chapter 143, Article 1.1, the Governmental Evaluation Commission has conducted its evaluation of Chapter 90, Article 9, entitled 'Nurse Practice Act'.

The Commission has concluded that the existence of a licensing and disciplinary program for registered nurses and licensed practical nurses is warranted and should be continued. However, the Commission recommends modification of the present statute to better ensure the achievement of the General Assembly's objectives in establishing the program.

The Commission recommends the following legislative changes:

- (1) Provide a more explicit definition of the practice of nursing by both registered and licensed practical nurses. (The Board proposed a definition for consideration by the General Assembly. This definition is included in the Appendix of the Commission Report, but has not been approved by the Commission.)
- (2) Repeal the provision (G.S. 90-167) which allows any person to perform "such duties as 'specified mechanical acts' in the physical care of a patient when such care and activities do not require the knowledge and skill required of a registered nurse or licensed practical nurse, or when such care and activities are performed under orders and directions of a licensed physician, licensed dentist or registered nurse."
- (3) Require all licensed nurses, hospital administrators and other health care facility administrators to report to the Board any known or reasonably suspected violation of the Nurse Practice Act.
- (4) Provide immunity from criminal prosecution and civil liability for persons who in good faith report any violation of the Nurse Practice Act.
- (5) Reorganize the Board of Nursing so it is comprised of five registered nurses, three licensed practical nurses, and three public members. All members would be appointed by the Governor.
- (6) Limit tenure of Board members to two complete consecutive three-year terms.

- (7) *Repeal the provision which restricts the participation of licensed practical nurse members in decisions of the Board.*
- (8) *Give the Board authority to issue reprimands, require remedial education, or restrict a licensee's license to practice, in addition to the current authority of the Board to revoke, suspend, or deny the issuance of a license.*

CONCLUSIONS

The Commission has concluded that the practice of nursing by registered nurses and licensed practical nurses affects the public interest and that a regulatory program including licensing requirements and disciplinary provisions is needed in North Carolina.

The Commission has concluded that the present statute is, for the most part, adequate to establish an effective and efficient program under the North Carolina Board of Nursing.

The Commission has concluded that the current statute should be amended to provide for a more explicit scope of practice, more effective accountability of members of the profession, more effective discipline of members of the profession, public accountability of the Board, and more effective input from the profession.

RECOMMENDATION

The Governmental Evaluation Commission recommends that North Carolina General Statutes Chapter 90, Article 9, be continued with the modifications described above.

INTRODUCTION TO GOVERNMENTAL EVALUATION COMMISSION

Chapter 143, Article 1.1, of the General Statutes terminates the State regulation of various occupations. By repealing the laws establishing them, a number of boards and commissions that license or regulate occupations are scheduled to be terminated.

The statute requires that prior to termination each agency be reviewed by the Governmental Evaluation Commission. The Commission is charged with conducting a "performance evaluation of each program or function scheduled for termination." Upon completion of the evaluation, the Commission submits a report to the General Assembly, including a recommendation as to whether the program or function in question, and the responsible agency, "should be terminated, reconstituted, re-established, or continued with or without modification of the relevant statutes."

The statute states that the Commission's basic determination is "of the need for continuance of an agency program or function," and that it shall use 13 listed evaluation elements in making its determination. The Commission is not limited to the use of the 13 elements in determining the presence of a public need for the continuance of a program or agency.

The Commission was authorized to employ a staff to help it in its work. The staff conducts an evaluation and reports its findings to the Commission in a staff report. The agencies are given the opportunity to appear before the Commission and respond to the staff report. After making any modifications it believes desirable, the Commission adopts a proposed Commission report.

The statute requires that public hearings be held on the proposed report, after a notice of the substance of the report and other details of the hearing is published. Upon completion of the hearing and consideration of the submitted evidence and arguments with respect to this evaluation, the Commission adopts its final recommendations. These recommendations are then submitted to the General Assembly for its deliberation.

This report represents the Commission's submission to the General Assembly on the program in question.

SCOPE OF THE EVALUATION

The purposes of the evaluation process are stated in the statute creating the Governmental Evaluation Commission:

§143-34.10. Findings and purposes. - The General Assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The General Assembly further finds that by establishing a system for the termination, continuation, and re-establishment of such agencies, it will be in better position to evaluate the need for the continued existence of existing and future regulatory bodies.

A recommendation on the "need for the continued existence of existing... regulatory bodies" is the end product of this evaluation process. An evaluation of "need" for the continued existence must focus on the public benefits resulting from the continued existence of a program or agency. The benefits to the persons the agency regulates are not reasons for continuing the agency.

In focusing on "need" the inevitable question that must be considered is: What is the harm to the public if there is no regulation of the occupation?

It can be argued that some possible harm is present in allowing unlicensed persons to serve the public in any occupation or capacity. There is always some risk that a member of the public will choose the wrong person in a selection process where there is no knowledge of competency or honesty. However, this selection process is a hallmark and strength of the free enterprise system.

On the other hand, regulation in any form, by any means, is restrictive of certain individual liberties protected by Article 1.1 of the North Carolina Constitution, which provides that all persons are afforded rights of "life, liberty, and the enjoyment of the fruits of their own labor, and the pursuit

of happiness." The state, through its police power, may enact legislation which invades these rights only if there is a real and substantial relationship between the legislation and the protection of the public health, safety, or welfare.

In the evaluation process, the underlying question asked by the legislature can be stated: Is this regulation a proper exercise of the state's police power? Is the public need for regulation sufficient to justify making available to the regulatory body the authority of the State of North Carolina to imprison, to fine, and to deprive the right of earning a living to a person who violates the regulatory statute? The regulatory statute makes available to the agency, for enforcement, the State Judiciary, the State Attorney General, the police, and the power to collect money for use of the agency.

The evaluation question to be answered could be stated another way: Does this regulatory statute protect the public from potential serious harm so that if there were no statute, serious harm would be done to the public's health, safety, or welfare?

The key words are "serious harm." If the answer to the evaluation question is "No", then there is no public need for the program or agency and the statute must not be continued.

If the answer is "Yes", then the Commission must look at all parts of the program and agency to determine if they are doing what the statute calls for them to do in an efficient and effective manner.

The General Assembly is the final authority on the recommendations of the Commission. A Committee of Reference in each House of the General Assembly will hold a public hearing on the recommendations relating to each agency. In the hearing the agency has the burden of demonstrating a public need for the continued existence of the agency and its program or function.

HISTORICAL BACKGROUND

The practice of nursing has been regulated in North Carolina since the early 1900's. All fifty states and the District of Columbia regulate nursing through a mandatory licensing law. The North Carolina Board of Nursing is charged with the responsibility of licensing registered nurses and licensed practical nurses, regulating the practice of nursing, and accrediting educational units leading to licensure.

EVALUATION ELEMENT #1

*AN IDENTIFICATION OF THE OBJECTIVES INTENDED FOR THE
AGENCY PROGRAM AND THE PROBLEM OR NEED WHICH THE
PROGRAM WAS INTENDED TO ADDRESS.*

The statute requiring the licensure of nurses (G.S.90, Article 9), states, "in order to safeguard life and health, any person practicing or offering to practice nursing . . . shall be required to submit evidence that he or she is qualified to practice by virtue of a license . . . issued by the North Carolina Board of Nursing".

EVALUATION ELEMENT #2

*AN ASSESSMENT OF THE DEGREE TO WHICH THE ORIGINAL
OBJECTIVES OF THE AGENCY PROGRAM HAVE BEEN ACHIEVED
EXPRESSED IN TERMS OF PERFORMANCE, IMPACT, OR
ACCOMPLISHMENTS OF THE PROGRAM AND OF THE PROBLEM
OR NEED WHICH IT WAS INTENDED TO ADDRESS. SUCH
ASSESSMENT SHALL EMPLOY PROCEDURES OR METHODS OF
ANALYSIS WHICH THE COMMISSION DETERMINES TO BE
APPROPRIATE TO THE TYPE OR CHARACTER OF THE PROGRAM.*

The objective of the North Carolina Board of Nursing as stated in the statute and EVALUATION ELEMENT #1, is to "safeguard life and health."

The Board attempts to ensure its mandate by :

"interpreting and enforcing regulations for eligibility of an individual to be licensed, by denying, revoking, or suspending a license for cause when a licensee's behavior would make him unsafe to give nursing care to the public, by monitoring, accrediting or withdrawing accreditation of programs in nursing which prepare individuals to write licensing examinations, by interpreting and applying with the Board of Medical Examiners, rules and regulations governing performance of medical acts by registered nurses, and by assessing the responsibilities of the Board and implementing mechanisms of constructive communication, cooperation, and collaboration with other agencies and individuals concerned with or affected by legal responsibilities of the North Carolina Board of Nursing."

The Board appears to have adequately achieved the objective of enforcing regulations for licensure eligibility. The Commission concludes that the efforts of the Board in determining qualifications and licensure eligibility, and issuing licenses in accordance therewith is very much needed, and that the Board has done an admirable job. The Board actively monitors educational institutions and facilities to certify continued compliance with the rules adopted by the Board for accreditation of nursing programs.

EVALUATION ELEMENT #3

*A STATEMENT OF THE PERFORMANCE AND ACCOMPLISHMENTS
OF THE AGENCY PROGRAM IN THE LAST FISCAL YEAR AND
OF THE BUDGETARY COSTS INCURRED IN THE OPERATION
OF THE PROGRAM.*

The performances and accomplishments of the North Carolina Board of Nursing for the 1979 fiscal year and the budgetary cost incurred in the operation of the program are as follows:

- a) renewed 14,560 licenses for RN's and 5,303 licenses for LPN's
- b) reinstated 1,357 RN licenses and 697 LPN licenses
- c) issued 1,853 RN licenses and 1,049 LPN licenses by examination
- d) issued 1,762 RN licenses by endorsement and 402 LPN licenses.

In addition, there were verifications of current licensure in North Carolina to other jurisdictions for 1,301 registered nurses and 295 licensed practical nurses. The Board also held public hearings on the status of lapsed licensees and made several changes to its regulations accordingly.

The Board operates on its own funds derived, primarily, from licensing fees. Total expenses for the fiscal year amounted to \$426,570.88 including salaries.

EVALUATION ELEMENT #4

*A STATEMENT OF THE NUMBER AND TYPES OF PERSONS
SERVED BY THE AGENCY.*

It is difficult to specify or to estimate the number of persons served by the licensing of registered nurses and licensed practical nurses.

The agency program, i.e., licensing, enforcement, and accrediting, most directly serves the licensees, currently totalling some 35,030 registered nurses, and 14,238 licensed practical nurses. In addition, the program serves the eighty-five (85) educational units which prepare persons for nurse licensure.

The Board's activities serve the entire population of North Carolina by affording assurance that licensed practical nurses and registered nurses are performing their services in a competent, and professional manner.

EVALUATION ELEMENT #5

*A SUMMARY STATEMENT, FOR THE LAST COMPLETED FISCAL
YEAR, OF THE NUMBER BY GRADE, AND COST OF PERSONNEL
EMPLOYED IN CARRYING OUT THE AGENCY PROGRAM AND A
SUMMARY STATEMENT OF THE COST OF PERSONNEL EMPLOYED
UNDER CONTRACT IN CARRYING OUT THIS PROGRAM.*

The number of persons employed by the Board during the fiscal year ending December 1979, is as follows:

<u>Number</u>	<u>Grade</u>	<u>Cost</u>
7*	Professional	\$116,187.14
7	General Staff	68,355.52
1**	Legal Counsel	8,404.07
	Part-time General Staff	<u>8,821.60</u>
		\$201,768.33

*Includes three persons who resigned; full complement is 6.

**Part-time general staff is utilized during licensure renewal period.

EVALUATION ELEMENT #6

*AN ASSESSMENT OF THE DEGREE TO WHICH THE OVERALL
POLICIES OF THE AGENCY PROGRAM, AS EXPRESSED IN
THE RULES, REGULATIONS, ORDERS, STANDARDS, CRITERIA,
AND DECISIONS OF THE AGENCY MEET THE OBJECTIVES OF
THE GENERAL ASSEMBLY IN ESTABLISHING THE PROGRAM.*

As previously noted in EVALUATION ELEMENTS #1 and #2, the purpose of the licensing law is to safeguard life and health.

The Commission found little inconsistency between the Board's activities and the intent of the General Assembly in creating the agency. The Board has been diligent in its licensing activities, however, the Commission notes that greater efforts should be made in the enforcement operations of the Board.

In addressing this evaluation element, the Commission considered whether all aspects of the regulatory process and the statute are aimed at protecting the public against incompetent practitioners. While the Commission could find no documented evidence of any aspects of the regulatory process which thwarted the protection offered, we recommend three amendments to the statute as preventive measures to enhance the public protection. The Commission recommends the repeal of § 90-167 which allows any person to perform "such duties as specified mechanical acts (emphasis added) in the physical care of a patient when such care and activities do not require the knowledge and skill required of a registered nurse or licensed practical nurse or when such care and activities (italics added) are performed under orders and directions of a licensed physician, licensed dentist, or registered nurse."²

In the opinion of the Commission, this conditional stipulation negates any protection afforded the public in that the statute fails to define specified mechanical acts. The effect of the provision is to allow lay persons not only to perform mechanical acts, but to perform any act in the physical care of a patient if done so under orders or directions of a licensed physician, licensed dentist, or registered nurse. The magnitude of potential abuse of such a provision is significant. Accordingly, the Commission recommends repeal of this provision.

The Commission further recommends the enactment of a mandatory reporting-of-violations of the Nurse Practice Act for all licensees, hospitals and other health care facilities administrators. The knowledge of illegal and incompetent acts by nurses primarily exists at the place of employment and is not visible to the agency charged with enforcement, the Nursing Board. There are no formal mechanisms for assuring that such information will come to the attention of the Board. The present mode for disciplinary action is largely contingent upon a complaint being lodged against a licensee by a consumer. The Board must rely upon external information to gain knowledge of incompetent practitioners, or those practitioners acting in violation of the law. The Commission concludes that the reporting of knowledge or information of incompetence would aid the Board in identifying those in violation of the law. To increase the flow of information to the Board concerning potential disciplinary problems, mandatory reporting-of-violations of the Nurse Practice Act should be required. Individual nurses, as well as hospitals, nursing homes, and other health care facilities administrators should be required to report to the Board knowledge of practitioner negligence.

The Commission recognizes that nurses, like other professional groups, may be reluctant to allege that a co-worker is incompetent. This reluctance is heightened by the present lack of immunity from criminal prosecution or civil liability for a reporting licensee. Such being the case, the Commission recommends, in addition to the enactment of a mandatory reporting provision, the enactment of an immunity from criminal prosecution and civil liability provision for those persons who in good faith report practitioner violations of the Nurse Practice Act.

EVALUATION ELEMENT #7

AN ASSESSMENT OF THE EFFECT OF THE AGENCY PROGRAM ON THE STATE ECONOMY INCLUDING COSTS TO CONSUMERS AND BUSINESSES.

Licensing grants practitioners an exclusive right to deliver services. Economists tend to agree that licensing restricts the supply of practitioners and their geographic mobility, and that it reduces competition and productivity. In addition, occupational regulation can result in increased service costs to consumers. The Commission, in addressing this evaluation element, reviewed the credentialling policy of the Board, restrictions on corporate practice if any, and the effect of any anti-competitive provisions in the statute and regulations. With regard to the above criteria, the Commission found no anti-competitive provisions, or statutory restrictions on corporate forms of practice, and found the Board's credentialling/endorsement policy to be only moderately restrictive.

While state regulation may cause higher prices, the cost to consumers can only be estimated. It is generally accepted that the costs of meeting the initial qualifications for licensure as well as the renewal requirements are inevitably passed on to the public. These costs, however, do not appear to represent a significant burden on the state's economy.

EVALUATION ELEMENT #8

AN EVALUATION OF THE REPORTING AND RECORD-KEEPING REQUIREMENTS AND ACTIVITIES OF THE AGENCY PROGRAM INCLUDING THE MANAGEMENT AND CONTROL OF INFORMATION AND RECORDS, THE VALUE OF THE INFORMATION GATHERED COMPARED TO THE COST TO RESPONDENTS, AND AN ASSESSMENT OF METHODS TO REDUCE AND SIMPLIFY THE REPORTING AND RECORD-KEEPING REQUIREMENTS.

An assessment was made of the Board's reporting and record-keeping requirements. Records were concise and well managed. Individual files are maintained on each of the licensees by license number and all relevant information regarding the licensee is readily accessible.

The Commission could find no instances where there was unnecessary information requested nor any cases where information requested had any substantive cost to the respondents. Overall, the record-keeping and reportings of systems employed were efficient and responsive to the needs of the licensing program.

EVALUATION ELEMENT #9

*A SUMMARY STATEMENT OF THE BUDGET AND PROGRAM OF
THE AGENCY FOR THE CURRENT FISCAL YEAR AND BUDGET
PROJECTIONS FOR THE NEXT SUCCEEDING FISCAL YEAR
IF THE PROGRAM WERE TO BE CONTINUED.*

The North Carolina Board of Nursing budgetary cost for fiscal year 1980 amounted to \$526,400. If continued, the Board estimates that the budgetary cost for 1981 will total \$582,500.

EVALUATION ELEMENT #10

*AN ASSESSMENT OF WHETHER THE AGENCY HAS PERMITTED
QUALIFIED APPLICANTS TO SERVE THE PUBLIC AND
WHETHER THE AGENCY HAS ENCOURAGED PARTICIPATION BY
THE PUBLIC IN MAKING ITS RULES AND DECISIONS, AS
OPPOSED TO PARTICIPATION SOLELY BY THE PERSONS IT
REGULATES.*

The Commission discovered no evidence from which to conclude that the Board has permitted poor quality practitioners to serve the public, or that the Board has failed to allow qualified applicants to serve the public. As mentioned in EVALUATION ELEMENT #6, however, the Commission has some concern about the potential abuse that could result from the statutory provision allowing unlicensed persons to perform "specified mechanical acts", or any acts done under the directions or orders of a registered nurse, licensed practical nurse, dentist, or licensed physician. The Commission recommends the repeal of this provision.

The Commission has reviewed the qualifications for licensure requirements as well as the licensing history of the Board for the past five years, and find both to be in accordance with the Board's role of providing qualified applicants to serve the public. There are currently over 50,000 nurses licensed to practice in North Carolina. The Board administers a national examination for both RN's and LPN's twice a year with the failure rate for initial sittings and repeaters being fairly consistent for the past five years. In addition, the statute provides for licensure by endorsement, with the Board issuing over 450 licenses by reciprocity in 1979 alone. The Commission concludes that the present requirements for licensure are not unduly restrictive and that the

activities of the Board do not prohibit qualified applicants from serving the public. Furthermore, the Commission concludes that the licensing and credentialling activities of the Board are not so permissive as to result in the licensure of unqualified practitioners in North Carolina.

Presently, the North Carolina Board of Nursing does not include any public representation. In order to promote public interest and help balance industry interest, the Commission recommends the addition of three (3) public members to the Board. The Commission feels that public representation will have a positive effect on the overall operation of the Board.

EVALUATION ELEMENT #11

*AN EVALUATION OF THE EXTENT TO WHICH THE OPERATION
HAS BEEN EFFICIENT AND RESPONSIVE TO PUBLIC
NEEDS.*

The efficiency of an agency's operation, as the Commission has approached the issue, is first and foremost a measure of how well personnel is being utilized to carry out a specific task or function. A judgment of efficiency; therefore, requires that a comparison be made to some established or assumed standard of performance for that task or function. The various licensing boards reviewed by the Commission; however, are quite different in functions. This uniqueness has precluded any useful comparison of one agency's performance with some standard. In judging the efficiency of a licensing agency's operation, the Commission has restricted its evaluation to identifying any duplicate programs or unnecessary activities. When no such programs or activities can be identified, the Commission has concluded that the agency's operation has been efficient. The Commission found no evidence of any duplication of efforts as relates to the activities of the program of the North Carolina Board of Nursing.

How well the operation of a licensing agency responds to public needs depends in the Commission's view, on the basic issue of whether the practice of the occupation involves a risk of significant harm to the public's health, safety or welfare. It is generally accepted that nurses perform a service involving a hazard to the public health and safety. Consequently, few would question the need to be protected from dangers posed by unqualified nurses. In addition, it is important to determine whether the public, or users of the services offered, are sufficiently

informed without licensing to select competent practitioners. Hospitals are the primary employers of nurses and in most instances would be capable of judging qualifications even without licenses. Some registered nurses, however, are independent practitioners offering their services directly to the public. The licensing program of the Board responds to the public needs in that the average consumer is not sufficiently knowledgeable to judge the qualifications of the practitioners or the quality of the services received, and therefore can not effectively protect himself in the market.

Other aspects of an agency's responsiveness to public needs, including how licensed applicants are evaluated, whether the public is encouraged to participate in agency decisions, and whether the disciplinary program adequately protects the public from negligent or incompetent licensees, are discussed under EVALUATION ELEMENTS #10 and #12.

EVALUATION ELEMENT #12

AN EVALUATION OF THE EXTENT TO WHICH COMPLAINTS HAVE BEEN EXPEDITIOUSLY PROCESSED TO COMPLETION IN THE PUBLIC INTEREST.

Relatively few complaints are received by the North Carolina Board of Nursing. Of the approximately 50,000 licensees, only sixty (60) complaints have been received by the Board over the past five years. All of these complaints were against licensees. While the Board has not had occasion to revoke a license in the past five years (as of the time of the initial review by the staff of the Commission) the Board has had ten (10) voluntary surrender of licenses by licensees during this same time.

The Commission could find no instance where complaints have not been expeditiously processed to completion in the public interest. However, the Commission does recommend that the Board be given additional enforcement authority. Namely, the Commission suggests that the disciplinary provision of the statute be amended to grant authority to the Board to issue reprimands, require remedial education and restrict a licensee's license to practice. The Commission feels this additional authority will increase the Board's flexibility and enable the Board to assign proper enforcement priorities to the various categories of disciplinary violations as included in the statute and regulations.

EVALUATION ELEMENT #13

*AN ANALYSIS OF THE SERVICE AND PERFORMANCE
ESTIMATED TO BE ACHIEVED IF THE AGENCY OR
AGENCY PROGRAM WERE CONTINUED.*

If the North Carolina Board of Nursing is continued, it is presumed that the services of the Board and the accomplishments of the agency program will be substantially similar to those presently achieved.

FOOTNOTES

1

Correspondence from North Carolina Board of Nursing, in response to staff interrogatory dated January 24, 1980.

2

N.C. GEN. STAT. § 90-167.

BACKGROUND INFORMATION

GENERAL

BOARD: North Carolina Board of Nursing

ESTABLISHED: 1903

LEGAL CITATION: G.S. Chapter 90, Article 9

TYPE STATUTE: Practice Act

STATUTORY INTENT: G.S. §90-167 states, "In order to safeguard life and health, any person practicing or offering to practice nursing...shall be required to submit evidence that he or she is qualified so to practice...."

LAST MAJOR STATUTORY REWRITE: 1965

BOARD COMPOSITION: 12 members: 5 registered nurses, 2 physicians, 2 hospital administrators associated with educational units in nursing, 3 licensed practical nurses. All members are appointed by the Governor.

TERM: 4 years.

BOARD MEMBERS AND OFFICERS:

1. Mrs. Audrey J. Booth, R.N., Chairman
School of Nursing Association Dean
Chapel Hill, N. C. (Residence in Durham)
2. Ms. Mary Ann Brewer, R.N., Vice-Chairman
Lenoir, N. C.
3. Mrs. Judith B. Seamon, R.N.
Morehead City, N. C.
4. Mrs. Jackie Stoker, R.N.
Asheville, N. C.
5. Mr. Russel E. Tranbarger, R.N.
Director Nursing, Moses Cone Hospital
Greensboro, N. C.
6. Mrs. Bessie Funderburg, L.P.N.
Wilmington, N. C.
7. Mrs. Nancy Cook, L.P.N.
Mocksville, N. C.
8. Mrs. Jane T. York, L.P.N.
Badin, N. C.
9. Mr. Robert Wall, H.A.
Concord, N. C.
10. John C. Blanton, H.A.
Ahoskie, N. C.
11. Dr. Glenn Dickard, Jr.
Chapel Hill, N. C.
12. Dr. Hamilton Allen
Winston-Salem, N. C.

MEETINGS: 3 meetings in last fiscal year.

REPORTS: Annual financial report and annual report containing information about applicants and licensees to be filed with the Secretary of State and the Attorney General; annual audit by State Auditor.

OTHER AGENCIES THAT CERTIFY: None for licensure.

OVERSIGHT AGENCIES: Legislative Rules Review.

LICENSING

EXEMPTIONS: Persons performing "...mechanical acts in the physical care of a patient when such care and activities do not require the knowledge and skill required of a registered nurse or licensed practical nurse or when such care and activities are performed under orders or directions of a licensed physician, licensed dentist or registered nurse."

CLASSIFICATIONS: Registered nurse, licensed practical nurse.

AVENUES: Exam, endorsement (reciprocity), grandfather.

LICENSING PROFILE - REGISTERED NURSES:

	<u>FISCAL YEARS</u>	1979	to date	1978	1977	1976	1975
<u>QUALIFYING EXAMINATIONS:</u>							
<u>Applications for Examination</u>							
First Time		*1,844		1,879	1,779	1,705	1,745
Repeaters		* 767		659	568	237	716
<u>Examinations Administered</u>							
First Time		*1,844		1,879	1,779	1,705	1,745
Repeaters		767		659	568	237	716
<u>Failure Rate (%)</u>							
First Time		** 25		24	21	20	18
Repeaters		** 38		52	47	58	57
<u>LICENSES ISSUED:</u>							
By Examination		** 474		1,748	1,674	1,480	1,739
By Reciprocity		*** 464		1,414	1,418	1,219	1,151
Under Grandfather Clause -- No Provision for Grandfather or Waiver Clause --							
<u>LICENSES RENEWED:</u>		***15,487		18,453	13,871	16,765	11,685
<u>TOTAL NUMBER LICENSED TO PRACTICE:</u>		***38,652		38,580	36,428	34,040	32,537

* Thru July examination

** February examination

*** Thru 2nd quarter

LICENSING PROFILE - LICENSED PRACTICAL NURSES:

<u>FISCAL YEARS</u>	<u>1979 to date</u>	<u>1978</u>	<u>1977</u>	<u>1976</u>	<u>1975</u>
<u>QUALIFYING EXAMINATIONS:</u>					
Applications for Examination					
First Time	*156	1,025	1,116	1,039	967
Repeaters	*102	159	103	126	216
<u>Examinations Administered</u>					
First Time	*156	1,025	1,116	1,039	967
Repeaters	*102	159	103	126	216
<u>Failure Rate (%)</u>					
First Time	* 7	9	6	7	8
Repeaters	* 54	60	61	48	63
<u>LICENSES ISSUED:</u>					
By Examination	*193	991	1,051	1,033	975
By Reciprocity	**193	325	369	288	276
Under Grandfather Clause -- No Provision for Grandfather or Waiver Clause --					
<u>LICENSES RENEWED:</u>	**5,761	9,375	1,872	7,903	4,328
<u>TOTAL NUMBER LICENSED TO PRACTICE:</u>	**16,976	13,983	12,516	14,803	15,182

* Thru April examination

** Thru 2nd quarter

REQUIREMENTS FOR EXAM: Registered nurse - good moral character, graduate of high school or equivalent, completed the course of study and graduated from an educational unit accredited by the Board or one accredited by the legal accrediting agency of another state or territory, District of Columbia, or foreign country satisfactory to the Board, safe health status, personal identification; licensed practical nurse - good moral character, completed ninth grade or equivalent, completed the course of study and graduated from a program of practical nurse education accredited by the Board or one accredited by the legal accrediting agency of another state or territory, the District of Columbia, or a foreign country satisfactory to the Board, safe health status, personal identification.

TYPE AND FREQUENCY OF EXAM: R.N. - 2 yearly, national exam, Raleigh -- L.P.N. - 2 yearly, national exam, Raleigh.

LICENSEURE QUALIFICATIONS: Applicants must meet the requirements to sit for the exam which includes completing the educational program prior to sitting for the exam. (Persons taking the exam for registered nurses must re-take only the portion of the test they fail. Persons taking the exam for licensed practical nurses must re-take the entire exam if not passed previously). Applicants for a license by endorsement must submit evidence of:

- 1) satisfactory licensure status in original state;
- 2) achieving passing score on examination as designated by North Carolina Board of Nursing (this does not mean passing the N.C. exam, but the exam of another state);

- 3) safe health status;
- 4) graduation from accredited program in nursing;
- 5) personal identification; and
- 6) safe practice of nursing

Foreign educated nurses may be licensed by endorsement if she has proof of secondary and nursing education as required by statute and Board and has passed state board test pool exam in another state.

INELIGIBILITY: "A practical nurse licensed under waiver of another state is not eligible to make application for a license in North Carolina on the basis of her license in the original state." (21NCAC36.0205(b))

DURATION OF REGISTRATION: Licenses renewed biennially.

RENEWAL REQUIREMENTS: Application plus payment of required fees.

ENFORCEMENT

HISTORY OF ENFORCEMENT:

<u>FISCAL YEAR</u>	1979 to date	1978	1977	1976	1975
Total complaints received	11	8	14	13	14
Number of complaints against licensees	11	8	14	13	14
Number of licenses voluntarily surrendered	2	0	4	2	2
Number of licenses withheld at renewal time (no contact from licensee)	0	2	0	0	0
Number of licenses revoked	0	0	0	0	0
Number of licensee disciplinary hearings	2 scheduled	0	0	0	0
Number of licenses reinstated	4	1	1	4	4

PROHIBITED CONDUCT: A license can be denied, suspended, or revoked if a licensee or applicant:

- 1) has practiced fraud or deceit in procuring or attempting to procure a license;
- 2) has been convicted of a felony or any other crime involving moral turpitude;
- 3) is guilty of gross immorality or dishonesty;
- 4) is addicted to alcohol or drugs to render her unfit or unworthy to practice;
- 5) is guilty of unprofessional or dishonorable conduct affecting or unworthy of her profession;
- 6) is unfit or incompetent to practice by reason of negligence or habits;
- 7) is mentally or physically incompetent to practice

COMPLAINT PROCEDURE: All complaints must be in writing, investigate complaints, complaints kept on records indefinitely, proceedings in accordance with G.S. Chapter 150A are initiated when necessary.

FINANCIAL

FEES: not to exceed

1. R.N. exam - \$30.00
2. R.N. endorsement - \$30.00
3. R.N. re-exam - \$30.00
4. R.N. renewal - \$15.00 (biennially)
5. Reinstate lapsed license and renewal for R.N. - \$30.00
6. L.P.N. exam - \$30.00
7. L.P.N. endorsement - \$30.00
8. L.P.N. re-exam - \$30.00
9. L.P.N. renewal - \$15.00 (biennially)
10. Reinstatement of lapsed license and renewal for L.P.N. - \$30.00

FINANCIAL

BUDGET PROFILE:

	FISCAL YEAR 1980	(PROJECTED) FISCAL YEAR 1981
Salaries		
Fulltime	\$ 210,000	\$ 241,000
Parttime	7,000	7,000
Social Security	14,000	16,000
Retirement	21,000	23,000
Hospital Insurance	4,000	6,000
	<hr/>	<hr/>
	\$ 256,000	\$ 293,000
Board/Committees	13,000	15,000
Conf./Conventions	9,000	9,000
Prof. Staff-Site Visits	6,000	8,500
Legal Retainer	6,000	10,000
Examinations	107,000	
Contract with Testing Service	86,000	80,000
Testing Centers & Service	8,000	10,000
Staffing	11,000	12,000
Item Reviews	1,000	1,000
Contract Fee with NCSBN, Inc.	1,000	1,000
Office Operations	90,700	
Supplies	10,000	12,000
Printing	13,000	17,000
Postage	16,000	20,000
Telephone	4,000	4,000
Rent	18,000	15,612
Insurance	900	1,000
Audit	800	1,200
Equip.-Rental/Maint.	22,000	30,000
Data Processing	4,500	6,000
Misc. (Includes Subscriptions)	1,500	2,000
Subtotal:	\$ 487,700	
Contingency	38,700	34,188
TOTAL:	\$ 526,400	\$ 582,500

APPENDIX
DEFINITION OF NURSING PROPOSED BY THE BOARD
NURSING

Nursing is a dynamic discipline which includes the care, counsel, teaching, referral and/or implementation of prescribed treatment in the prevention and/or management of illness, injury, disability or the achievement of a dignified death. It is the ministering to, the assisting of, and the sustained, vigilant, and continuous care of those acutely or chronically ill; the supervision of patients during convalescence and rehabilitation and the supportive and restorative care given to maintain the optimum level of health of individuals and communities.

Depending on education and experience, the practice of nursing by a registered nurse consists of the following eight components:

- (1) *Assessing the patient's physical and mental health, including the patient's reaction to illnesses and treatment regimen, and the referral of persons for specialized nursing or other health services;*
- (2) *Recording and reporting the results of the nursing assessment;*
- (3) *Planning, initiating, delivering, and evaluating appropriate nursing acts;*
- (4) *Teaching, delegating to or supervising other nursing personnel in implementing the nursing regimen;*
- (5) *Collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of §90-18.2, not prescribing a medical or dental treatment regimen;*
- (6) *Participating in implementing the treatment regimen prescribed by any person authorized by state law to prescribe such a regimen;*
- (7) *Providing teaching and counseling about the patient's health care;*
- (8) *Reporting and recording the plan for care, nursing care given, and the patient's response to that care.*

The practice of nursing by a licensed practical nurse consists of the following five components:

- (1) *Participating in assessing the patient's physical and mental health, including the patient's reaction to illnesses and treatment regimen;*
- (2) *Recording and reporting the results of the nursing assessment;*
- (3) *Participating in implementing the health care plan developed by the registered nurse and/or prescribed by the physician or dentist, by performing tasks delegated by and performed under the supervision of a registered nurse, physician or dentist;*
- (4) *Reinforcing the teaching and counseling by a registered nurse, physician, or dentist; and*
- (5) *Reporting and recording the nursing care rendered and the patient's response to that care.*

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 90, ARTICLE 9 OF THE GENERAL STATUTES RELATING TO THE PRACTICE OF NURSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-159(a) is rewritten to read as follows:

"(a) North Carolina Board of Nursing.--There is hereby established the North Carolina Board of Nursing which shall consist of 11 members appointed by the Governor to be chosen as follows: five members shall be registered nurses; three members shall be licensed practical nurses, and three members shall represent the interest of the public at large.

All nurse members of the Board shall be currently licensed to practice in North Carolina and shall have had at least five years experience in and be currently engaged in the practice of nursing, nursing administration, and/or nursing education.

The public members of the Board shall not be health care providers nor may they be the spouse of a health care provider. For purposes of Board membership, 'health care provider' means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with a significant financial interest in a health service or profession is not a public member.

The Governor may remove any member appointed by him for good cause shown. Any interim vacancy on the Board shall be filled for the remainder of the unexpired term by appointment of the Governor.

The Governor shall appoint the three public members not later than July 1, 1981. In order to establish regularly overlapping terms, the initial public members shall serve the following terms: one for one year, one for two years, and one for three years. Thereafter, all public members shall serve three year terms.

All nurse members of the Board serving on June 30, 1981, shall be eligible to complete their respective terms; the terms of all other members of the Board shall expire on June 30, 1981. No member appointed to the Board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is chosen and qualifies."

Sec. 2. G.S. 90-167 is amended by deleting the last sentence thereof, which begins on line 10 with the word "Nothing" and ends on the last line of the section with the word "nurse".

Sec. 3. G.S. 90-171 is rewritten to read as follows:

"§ 90-171. Applicants licensed in other states.--If an applicant for licensure is already licensed as a registered nurse or licensed practical nurse in another state or foreign country, the Board shall issue a certificate and a license to practice as a registered nurse or licensed practical nurse to the applicant upon presentation of evidence satisfactory to the Board that:

- (1) the applicant is currently an active, competent practitioner in good standing; and
- (2) the applicant currently holds a valid license in another jurisdiction; and
- (3) no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State, and

(4) the licensure requirements in the other state or country are equivalent to or higher than those required by this State.

Any license issued upon the application of any registered nurse or licensed practical nurse from any other jurisdiction shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina Board of Nursing upon examination of applicants, and the rights and privileges to practice the profession of nursing under any license so issued shall be subject to the same duties, obligations, restrictions and conditions as imposed by this Article on registered nurses and license practical nurses originally examined by the North Carolina Board of Nursing."

Sec. 4. G.S. 90-171.2 is amended on line 2 by deleting the brackets surrounding the word "be".

Sec. 5. G.S. 90-171.5 is amended by rewriting the title thereof and lines 1 through 7 to read as follows:

"§ 90-171.5. Grounds for professional discipline.--(a) The Board may, after notice and hearing in accordance with the provisions of Chapter 150A of the General Statutes, take disciplinary action when it determines upon findings of fact supported by competent evidence that such person has violated one or more provisions of this subsection. Such disciplinary action may include any of the following sanctions, singly or in combination: issue a letter of reprimand; require remedial education; place restrictions on the licensee's license to practice nursing; suspend or permanently revoke a license to practice nursing; and refuse to issue a license to practice nursing.

The following are grounds for disciplinary action by the Board:".

Sec. 6. G.S. 90-171.5 is further amended by deleting the last two words of subdivision (6) which read as follows:

"or habits".

Sec. 7. G.S. 90-171.5 is further amended by adding a new subsection to the end thereof to read as follows:

"(b) The chief administrative officer of every licensed hospital or other health care institution in this State and all persons licensed under this Article shall report any violation of this Article or the rules and regulations duly adopted thereunder known to them to the Board of Nursing. Any person having reasonable cause to suspect that a violation of this Article has occurred who makes a report required by this subsection shall be immune from any civil or criminal liability that might otherwise result therefrom."

Sec. 8. G.S. 90-171.15 is amended on line 3 by deleting the brackets surrounding the letter "A" as it appears following the number "150".

Sec. 9. G.S. 143-34.12 is amended by deleting line 8 which reads as follows:

"Chapter 90, Article 9, entitled 'Nurse Practice Act'."

Sec. 10. This act is effective upon ratification.



H00152675 Q

WY 21 AN8 N863.3f 1981

North Carolina. Governmental
Evaluation Commission.North Carolina Board of
Nursing...report

WY 21 AN8 N863.3f 1981

North Carolina. Governmental
Evaluation Commission.North Carolina Board of
Nursing...report

DATE	ISSUED TO
08 21 81	ROYSTON E JR 6 PM 8/86 PED 4141
08 24 81	ROYSTON E JR 6 PM 8/86 PED 4141

This book circulates for a 2-week period and
is due on the last date stamped below. It may
be renewed for one additional period. The
fine for late return is 25¢ a day.

AUG 16 1983

AUG 24 1983

JUN 19 1984

JUL 03 1984

MAR 15 1985

